Supreme Court, U.S.
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No. _____

IN THE SUPREME COURT OF THE UNITED STATES

DOMINICK A. PILLI, *Petitioner,*
versus

VIRGINIA STATE BAR, *Respondent*

ON APPEAL FOR WRIT OF CERTIORARI TO THE
SUPREME COURT OF VIRGINIA
PETITION FOR WRIT OF CERTIORARI

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QUESTION PRESENTED

After rescheduling a trial, an attorney was ordered to show cause for not appearing for its initial setting. He appeared with his client and passed on the show cause hearing, but it was transferred to another courtroom, called, and sanctions entered against him while he briefly stepped outside to attend to another matter in a nearby courtroom – despite having informed opposing counsel of the situation and despite the judge being told that he was in another courtroom. Then, the court found him in contempt for his absence in so doing, also intimidating his waiting client. The attorney's response essentially stated that the court had uttered untrue statements. Later, after the attorney complained about the Judge, the state bar instituted disciplinary proceedings against the attorney resulting in significant punishment.

1. Should the attorney be punished for his statements in the Reply? Were any of those statements knowingly contemptuous?

a. Did the statements in the Reply lack reasonable basis in fact and law?

b. Should the attorney be punished for protected First Amendment expressions of opinion?

c. Are factual or mixed statements sanctionable if they are neither false nor made with reckless disregard for the truth?

d. Should the attorney be punished for privileged speech in pleadings?

e. Does due process permit punishment for contents of a document about which no complaint initially was raised below?

SHORT ANSWERS

No. Under century-old law in the jurisdiction, the attorney could not have been in contempt under the circumstances. The Reply was substantially true and neither it nor the attorney's conduct were contemptuous – much less knowingly or willfully so.

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STATEMENT OF THE BASIS FOR JURISDICTION

(i) The judgment or order sought to be reviewed was entered on April 22, 2005. This petition is being filed within 90 days after that date.

(ii) Mr. Pilli filed a motion for reconsideration for a stay which was denied on June 14, 2005.

(iii) No cross-petition for a writ of certiorari is filed under Rule 12.5.

(iv) The statutory provisions believed to confer on this Court jurisdiction to review on a writ of ertiorari the judgment and order in question include Rule 8.2 of the Virginia Professional Rules of Conduct and the First Amendment to the United States Constitution. Additionally, jurisdiction is proper in light of the issues of nationwide concern raised by this matter.

(v) No notifications are required under Rule 29.4(b) or (c).

CONSTITUTIONAL PROVISIONS, TREATIES, STATUTES, ORDINANCES, AND REGULATIONS INVOLVED

First Amendment to the United States Constitution

Rule 8.2 of the Virginia Rules of Professional Conduct:

> A lawyer shall not make a statement that the lawyer knows to be false or with reckless disregard as to its truth or falsity concerning the qualifications or integrity of a judge or other judicial officer.

VA. R. PROF. CONDUCT 8.2.